IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 10461 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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GIRDHARBHARTHI NABHUBHARTHI GOSAI - Petitioner(s)

Versus

STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :

MRS PAHWA FOR M/S THAKKAR ASSOC. for Petitioner No(s).: 1.
MR DIPEN DESAI, AGP for Respondent No(s).: 1, 2, 3, 4,5.

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date : 04/08/2005

ORAL JUDGMENT

RULE. Mr.Dipen Desai, learned AGP, waives service of notice of rule on behalf of the respondents. With the consent of the parties, matter is taken up for final hearing today.

By filing this petition, the petitioner has challenged his reversion order dated 19-8-2004 by which the petitioner is reverted from the post of Range Forest Officer to the Forester. By the order dated 25th February, 2004, the petitioner was promoted on the aforesaid post of Range Forest Officer. On behalf of the petitioner it is submitted by Mrs.Pahwa that because of some petitions filed by some Range Forest Officers in which this Court has issued notice, the department has reverted the petitioner. It is also submitted that such order of reversion is passed without hearing the petitioner. It is further submitted by her that the petitioner was rightly promoted by the department and at that time promotion was given to the petitioner after considering the push down theory.

On the other hand, Mr.Desai, learned AGP, submitted that by mistake final seniority list was prepared by the department without considering the push down theory and on that basis the petitioner was promoted. It is also submitted by him that when the department has realized said mistake, the petitioner was reverted to the post of Forester.

It is not disputed very seriously by the department that before passing the impugned order, no hearing was given to the petitioner. Therefore, without expressing any opinion on the merits of the issue, the department is directed to give hearing to the petitioner and after hearing the petitioner appropriate order may be passed in accordance with law.

Mr.Desai, learned AGP submitted that appropriate order will be passed expeditiously and in accordance with law after hearing the petitioner. Mrs.Pahwa, learned advocate for the petitioner has assured that her client will cooperate for early hearing of the matter at the end of the department.

In view of what is stated herein above, this petition is partly allowed and the impugned order, reverting the petitioner from the post of Range Forest Officer to the post of Forester, is quashed and set aside. The department may pass appropriate order after hearing the petitioner in accordance with law. If the ultimate order is against the petitioner, it will be open for him to challenge the same in accordance with law.

The petition is partly allowed. Rule is made absolute accordingly with no order as to costs.

(P.B.MAJMUDAR, J.)

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